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Baker & Botts
2001 Ross Ave.
Dallas TX 75201-2980

In re Application of
Ralph M. Greene, et al.
Application No. 08/425,766
Filed: April 19, 1995
For: Method and Apparatus for
Disposing of Waste Material

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: Decision Dismissing
: Petition
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This is in response to the "Petition for Filing Joint Reissue Application Declaration and Power of Attorney," October 15, 1997.

The petition is dismissed.

On April 19, 1995, the above-identified application was filed with a declaration signed by joint inventor Patrick Malone, but not by joint inventor Greene and seeking to enlarge the scope of the patent. Accordingly, the reissue declaration was required to be signed by both joint inventors, unless a petition under 37 CFR 1.47 was granted. See 37 CFR 1.172. Subsequently, a petition under 37 CFR 1.47(a) was granted in a decision mailed May 13, 1996 and the reissue declaration was thereby permitted to be made by only joint inventor Malone.

Rule 47 petitions are filed to permit an application to be filed by one party on behalf of another, for example, a Rule 47(a) petition is filed to permit an inventor to file an application on behalf of himself and another inventor. When Rule 47(a) status is accorded, a declaration signed by one inventor and having the signature line of another inventor blank can be accepted as having been signed by the one inventor on behalf of the non-signing inventor. However, the decisions mailed October 31, 1995 and May 13, 1996 failed to address the fact that if a joint inventor is available, only the joint inventor may execute the declaration on behalf of the non-signing inventor. See Manual of Patent Examining Procedure, Section 409.03(a), page 400-21, right-hand column (Rev. 3, July 1997). Accordingly, any declaration signed by a party other than a joint inventor, such as the declaration filed June 19, 1995 signed by Michael Slataper, would not be signed by the appropriate party. Furthermore, the decision did not explain that once Rule 47 status is accorded, any

required supplemental declaration need only be signed by joint inventor Malone on behalf of himself and on behalf of joint inventor Greene and no further petition would be required to permit the declaration to be accepted without the signature of Greene. The added page filed June 19, 1995 and the joint reissue declaration filed October 15, 1997 are deficient because they include the signature of Michael Slataper on behalf of Ralph Greene.

After mailing of this decision, the above-identified application will be returned to Group 3400 for treatment of the reissue application consistent with this decision.

The petition was accompanied by a \$130.00 petition fee. Since the petition was not necessary, the \$130.00 petition fee was also not required and was paid in error. Accordingly, petitioner may wish to request a refund of the \$130.00 petition fee paid by mistake on October 15, 1997.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-3159.


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for Patent Policy and Projects